

successor agency under Public Law 103-354 farmer program loan.

*Office of the General Counsel (OGC).* The Regional Attorneys, Attorneys-in-Charge, and National Office staff of the Office of the General Counsel of the United States Department of Agriculture.

*Purchase money security interest.* Special type of security interest which, if properly perfected, takes priority over an earlier-perfected security interest. A security interest is a purchase money security interest to the extent that it is taken by the seller of the collateral to secure all or part of its purchase price or by a lender who makes loans or is obligated to make loans or otherwise gives value to enable the debtor to acquire the particular collateral or obtain rights in it. Such value must be given not later than the time the debtor acquires the collateral or obtains rights in it.

*Reposessed property.* Security or EO property in FmHA or its successor agency under Public Law 103-354's custody, but still owned by the borrower.

*Security.* Also means "Chattel security" when appropriate.

[50 FR 45783, Nov. 1, 1985, as amended at 51 FR 13481, Apr. 21, 1986; 53 FR 35783, Sept. 14, 1988]

#### § 1962.5 [Reserved]

#### § 1962.6 Liens and assignments on chattel property.

(a) *Chattel property not covered by Agency lien.* (1) When additional chattel property not presently covered by an Agency lien is available and needed to protect the Government's interest, the County Supervisor will obtain one or more of the following:

- (i) A lien on such property.
- (ii) An assignment of the proceeds from the sale of agricultural products when such products are not covered by the lien instruments.
- (iii) An assignment of other income, including FSA Farm Programs (formerly ASCS) payments.

(2) When a current loan is not being made to a borrower, a crop lien will be taken as additional security when the County Supervisor determines in individual cases that it is needed to protect the Government's interests. However, a

crop lien will not be taken as additional security for Farm Ownership (FO), Rural Housing (RH), Labor Housing (LH), and Soil and Water (SW) loans. When a new security agreement or chattel mortgage is taken, all existing security items will be described on it.

(b) [Reserved]

(c) *Assignments of upland cotton, rice, wheat and feed grain payments.* Borrowers may assign FSA Farm Programs (formerly ASCS) payments under upland cotton, rice, wheat and feed grain programs.

(1) *Obtaining assignments.* Assignments will be obtained as follows:

(i) Only when it appears necessary to collect operating-type loans.

(ii) Only for the crop year for which operating-type loans are made, and

(iii) For only the amount anticipated for payments as indicated on Form FmHA 1962-1, "Agreement for the Use of Proceeds/Release of Chattel Security," of the applicable upland cotton, rice, wheat and feed grain programs.

(2) *Selecting counties.* The County Supervisor then will:

(i) Determine, at the time of loan processing for indebted borrowers and new applicants, who must give assignments and obtain them no later than loan closing. Special efforts will be made to obtain the bulk of assignments before the sign-up period for enrolling in the annual Feed Grain and Wheat set aside programs.

(ii) Obtain assignments from selected borrowers on Form ASCS-36, "Assignments of Payment," which will be obtained from FSA Farm Programs.

(3) *Releasing assignments and handling checks.* (i) The County Supervisor will inform FSA Farm Programs that releasing its assignment whenever a borrower pays the amount due for the year on the operating-type loan debt or pays the debt in full.

(ii) Checks obtained as a result of an assignment will be made only to the Agency, and the proceeds used as indicated on Form FmHA 1962-1.

[61 FR 35929, July 9, 1996]

#### § 1962.7 Securing unpaid balances on unsecured loans.

The County Supervisor will take a lien on a borrower's chattel property in

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accordance with § 1962.6 of this subpart if it is necessary to rely on such property for the collection of the borrower's unsecured indebtedness, or if it will assist in accomplishing loan objectives.

### § 1962.8 Liens on real estate for additional security.

The County Supervisor may take the best lien obtainable on any real estate owned by the borrower, including any real estate which already serves as security for another loan. Additional liens will be taken only when the borrower is delinquent, the existing security is not adequate to protect FmHA or its successor agency under Public Law 103-354 interests, and the borrower has substantial equity in the real estate to be mortgaged, and taking such mortgage will not prevent making an FmHA or its successor agency under Public Law 103-354 real estate loan, if needed, later.

(a)-(b) [Reserved]

[50 FR 45783, Nov. 1, 1985, as amended at 53 FR 35783, Sept. 14, 1988; 56 FR 15824, Apr. 18, 1991; 61 FR 35930, July 9, 1996]

### §§ 1962.9-1962.12 [Reserved]

### § 1962.13 Notification to potential purchasers.

(a) In States without a Central Filing System (CFS), all Farm Credit Programs borrowers prior to loan closing or prior to any servicing actions which require taking a lien on farm products, such as crops or livestock, must provide the names and addresses of potential purchasers. A written notice will be sent by the Agency, certified mail, return receipt requested, to these potential purchasers to protect the Government's security interest.

(1) The name and address of the debtor.

(2) The name and address of any secured party.

(3) The Social Security number or tax ID number of the debtor.

(4) A description of the farm products given as security by the debtor, including the amount of such products where applicable, the crop year, the county in which the products are located, and a reasonable description of the farm products.

(5) Any payment obligation imposed on the potential purchaser by the secured party as a condition for waiver or release of lien. The original or a copy of the written notice also must be sent to the purchaser within 1 year before the sale of the farm products. The written notice will lapse on either the expiration period of the Financing Statement or the transmission of a letter signed by the County Supervisor and showing that the statement has lapsed or the borrower has performed all obligations to the Agency.

(b) Lists of borrowers whose chattels or crops are subject to an Agency lien may be made available, upon request, to business firms in a trade area, such as sale barns and warehouses, that buy chattels or crops or sell them for a commission. These lists will exclude those borrowers whose only crops for sale require FSA Farm Programs (formerly ASCS) marketing cards. The list is furnished only as a convenience and may be incomplete or inaccurate as of any particular date.

(1)-(2) [Reserved]

[61 FR 35930, July 9, 1996, as amended at 62 FR 10157, Mar. 5, 1997]

### § 1962.14 Account and security information in UCC cases.

Within 2 weeks after receipt of a written request from the borrower, the Agency must inform the borrower of the security and the total unpaid balance of the Agency indebtedness covered by the Financing Statement.

(a) If the Agency fails to provide the information, it may be liable for any loss caused the borrower and, in some States, other parties, and also may lose some of its security rights. The UCC provides that the borrower is entitled to such information once every 6 months without charge, and the Agency may charge up to \$10 for each additional statement. However, the Agency provides them without charge.

(b) Although the UCC only requires the Agency to give information pursuant to the borrower's written request, the Agency will also answer oral requests. Furthermore, the UCC does not prohibit giving this information to others who have a proper need for it, such